

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN E. MITCHELL,

Plaintiff,

v.

R. DIAZ, et al.,

Defendants.

Case No. 1:22-cv-00006-JLT-EPG (PC)

ORDER VACATING FINDINGS AND
RECOMMENDATIONS ON PLAINTIFF'S
MOTION FOR AN ORDER UNDER ALL
THE WRITS ACT, DENYING PLAINTIFF'S
MOTION TO STAY, AND GRANTING
PLAINTIFF SIXTY DAYS TO FILE AN
AMENDED COMPLAINT

(ECF Nos. 13, 15, & 16)

John Mitchell ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action. Plaintiff filed the complaint commencing this action on December 27, 2021.¹ (ECF No. 1).

On March 16, 2022, Plaintiff filed a notice that he withdraws his motion for an order under the All Writs Act. (ECF No. 16).

On that same day, Plaintiff filed a motion to stay the proceedings for forty-five days. (ECF No. 15). Plaintiff states that he is currently housed at Kern Valley State Prison due to a criminal matter, but may be transferred back to CSP-Sacramento within forty-five days. Plaintiff wants the Court to stay the proceedings so that he can make corrections to the pleadings and add two or three claims. Plaintiff also states that he should have no need to add new claims or

¹ Plaintiff did not pay the filing fee until February 1, 2022.

1 defendants if the Court stays the case.

2 As Plaintiff has withdrawn his motion for an order under the All Writs Act, the Court will
3 vacate its findings and recommendations, recommending that the motion be denied (ECF No. 13).

4 As to Plaintiff's motion to stay the case for forty-five days, it will be denied. Plaintiff's
5 complaint is currently awaiting screening, and Plaintiff does not have any court ordered deadlines
6 for the Court to stay. However, as Plaintiff has indicated that he wants to file an amended
7 complaint and that he needs over forty-five days to do so, the Court will give Plaintiff sixty days
8 to file a First Amended Complaint ("FAC"), which the Court will screen in due course. If
9 Plaintiff does not file a FAC within this sixty-day period, the Court will screen Plaintiff's original
10 complaint.

11 The Court notes that, if Plaintiff chooses to file a FAC, Plaintiff should only include
12 related claims. "The controlling principle appears in Fed. R. Civ. P. 18(a): 'A party asserting a
13 claim to relief as an original claim, counterclaim, cross-claim, or third party claim, may join,
14 either as independent or as alternate claims, as many claims, legal, equitable, or maritime, as the
15 party has against an opposing party.' Thus multiple claims against a single party are fine, but
16 Claim A against Defendant 1 should not be joined with unrelated Claim B against Defendant 2.
17 Unrelated claims against different defendants belong in different suits...." K'napp v. California
18 Dept. of Corrections, 2013 WL 5817765, at *2 (E.D. Cal., Oct. 29, 2013) (quoting George v.
19 Smith, 507 F.3d 605, 607 (7th Cir. 2007), aff'd sub nom. K'napp v. California Dept. of
20 Corrections & Rehabilitation, 599 Fed. App'x. 791 (9th Cir. 2015); see also Fed. R. Civ. P.
21 20(a)(2) ("Persons ... may be joined in one action as defendants if: (A) any right to relief is
22 asserted against them jointly, severally, or in the alternative with respect to or arising out of the
23 same transaction, occurrence, or series of transactions or occurrences; and (B) any question of
24 law or fact common to all defendants will arise in the action."); Coughlin v. Rogers, 130 F.3d
25 1348, 1350 (9th Cir. 1997) ("[T]he 'same transaction' requirement[] refers to similarity in the
26 factual background of a claim.").

27 Accordingly, based on the foregoing, IT IS ORDERED that:

28 1. The findings and recommendations issued on March 8, 2022 (ECF No. 13), are

VACATED;

2. Plaintiff's motion to stay is DENIED; and

3. Plaintiff has sixty days from the date of service of this order to file a First Amended Complaint.

IT IS SO ORDERED.

Dated: **March 17, 2022**

/s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE